

REMARKS/ARGUMENTS

This response is filed in response to the Final Office Action of December 6, 2010. Claims 2–28 remain canceled. Claims 1, 29–37 are currently pending.

Rejections under 35 U.S.C. §102 and 35 U.S.C. §103

Claims 1, 29 and 31–36 were rejected under 35 U.S.C. §102(b) as anticipated by Nields.

Nields:

Nields describes a system for ‘x-ray imaging and ultrasound imaging of a body region of interest in a spatially correlatable manner...’ (Abstract).

In order to reject a claim under 35 U.S.C. 102, every limitation of the claims should be shown or suggested by the references. The Examiner states that Nields describes each element of the claimed invention, but failed to give patentable weight to the claimed limitation of acquiring a pre-scan ultrasound “for optimizing exposure parameters of the x-ray source”. The Examiner stated, on page 3 of the office action, that “Examiner interprets pre-scan ultrasound image data to be ultrasound image data acquire from an ultrasound scan before an x-ray scan. The system has a structure that is capable of acquiring a pre-scan ultrasound image data...”

In Applicant’s previous response, Applicant amended the claims to more clarify the relationship between the pre-scan ultrasound data and its use to control x-ray acquisition parameters. The Examiner stated, at pages 5–6 of the current office action that ‘Applicant’s argument is not persuasive because this is functional language and not structure. The only structure in the claim is the ultrasound system ...’ Applicant

has amended the claims to more clearly recite the structure as requested by the Examiner.

Applicant disagrees with the Examiner's position that, since Nields is capable of obtaining an ultrasound and x-ray image, it meets the limitations of the claims. In particular, there is functionality in the claim which is *not* taught by Nields, i.e., the acquisition for adjustment of x-ray imaging parameters using pre-scan ultrasound data. No such feature is taught or suggested by the Nields reference, and the statement by the Examiner that Nields teaches this feature is overreaching. However, in the interest of clarifying the language for the Examiner, Applicants have amended the independent claims to more particularly recite this feedback structure. According, it is submitted that the rejection under 35 U.S.C. 102 is improper and should be withdrawn.

Conclusion

In light of the above Remarks, Applicants respectfully request that a timely Notice of Allowance be issued in this case. If the Office should have any questions or other issues to discuss, please do not hesitate to contact the undersigned attorney.

The Examiner is hereby authorized to charge the Deposit Account No. 50-2855 for any actual deficiency. The Examiner is also authorized to credit any overpayment to Deposit Account No. 50-2855.

3/7/11

Respectfully submitted,

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